

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Vonnie Darin Darby,)	
)	
Plaintiff,)	ORDER ADOPTING
)	REPORT AND RECOMMENDATION
vs.)	
)	
Tim Schuetzle,)	
)	Case No. 1:09-cv-004
Defendant.)	
<hr style="width: 40%; margin-left: 0;"/>)	
)	
Vonnie Darin Darby,)	
)	
Plaintiff,)	
)	Case No. 1:09-cv-005
vs.)	
)	
Tim Schuetzle, Warden,)	
)	
Defendant.)	

The above-entitled actions have been consolidated and Case No. 1:09-cv-004 has been designated the lead case. On February 3, 2009, the plaintiff, Vonnie Darby, filed motions for leave to proceed in forma pauperis. See Docket No. 1, Case No. 1:09-cv-004; Docket No. 1, Case No. 1:09-cv-005. On February 17, 2009, Darby filed motions to amend the complaints that had been attached to previous pleadings. See Docket No. 4, Case No. 1:09-cv-004; Docket No. 4, Case No. 1:09-cv-005. On February 18, 2009, Magistrate Judge Charles S. Miller, Jr. granted the motion for leave to proceed in forma pauperis in Case No. 1:09-cv-004. See Docket No. 6. The complaints were subsequently filed. See Docket Nos. 8 and 8-2, Case No. 1:09-cv-004. Pursuant to 28 U.S.C. § 1915A, Judge Miller conducted a review of the record and relevant case law and submitted a Report and Recommendation on February 18, 2009. See Docket No. 9, Case No. 1:09-cv-004.

Judge Miller recommended that the complaints in this consolidated action be dismissed without prejudice because each complaint fails to state a claim, and that the pending motion to amend (Docket No. 4, Case No. 1:09-cv-004) be dismissed as moot. Darby was given ten (10) days to file an objection to the Report and Recommendation. Darby has not filed an objection.

The Court has carefully reviewed the Report and Recommendation, relevant case law, and the entire record and finds the Report and Recommendation to be persuasive. Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 9, Case No. 1:09-cv-004) in its entirety, **DISMISSES** the complaints **WITHOUT PREJUDICE** (Docket Nos. 8 and 8-2, Case No. 1:09-cv-004), and **FINDS AS MOOT** the motion to amend complaint (Docket No. 4, Case No. 1:09-cv-004).

IT IS SO ORDERED.

Dated this 13th day of March, 2009.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court